

**STATE OF INDIANA  
DEPARTMENT OF STATE REVENUE**

**IN REGARDS TO THE MATTER OF:**

**MS. FRANCES MEADE  
DOCKET NO. 29-2003-0202**

**FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND PROPOSED ORDER**

An administrative hearing was held on Thursday, May 22, 2003 in the office of the Indiana Department of State Revenue, 100 N. Senate Avenue, Room N248, Indianapolis, Indiana 46204 before Bruce R. Kolb, Administrative Law Judge acting on behalf of and under the authority of the Commissioner of the Indiana Department of State Revenue.

Petitioner, Frances Meade, appeared *Pro Se*. Steve Carpenter appeared on behalf of the Indiana Department of State Revenue.

A hearing was conducted pursuant to IC 4-32-8-5, evidence was submitted, and testimony given. The Department maintains a record of the proceedings. Being duly advised and having considered the entire record, the Administrative Law Judge makes the following Findings of Fact, Conclusions of Law and Proposed Order.

**REASON FOR HEARING**

On March 6, 2003, the Petitioner was assessed civil penalties in the amount of one thousand dollars (\$1,000) and is prohibited from associating with charity gaming activities in the State of Indiana for a period of ten (10) years. The Petitioner protested in a timely manner. A hearing was conducted pursuant to IC § 4-32-8-5.

**SUMMARY OF FACTS**

- 1) The Indiana Department of Revenue Criminal Investigation Division initiated an investigation of the Brooklyn Volunteer Fire Department (BVFD).
- 2) On March 6, 2003, the Petitioner was assessed civil penalties in the amount of one thousand dollars (\$1,000) for being an operator or worker at the BVFD's charity gaming event without being a member of the BVFD and also prohibited from associating with charity gaming activities in the State of Indiana for a period of ten (10) years.

### **FINDINGS OF FACTS**

- 1) The Indiana Department of Revenue Criminal Investigation Division initiated an investigation of the Brooklyn Volunteer Fire Department (BVFD). (Record at 6).
- 2) According to the Department's witness, Criminal Investigation Division report regarding the Brooklyn Volunteer Fire Department (BVFD) found that the organization had, "contracted with ...Frances Meade to conduct bingo July 1, 2000 to June 30, 2001." (Department's Exhibit C).
- 3) According to the Department's letter dated March 6, 2003, the Criminal Investigation Division (CID) found, "Frances and Raquel Meade approached the BVFD and indicated that she and Raquel could help them raise funds to run the fire department by sponsoring bingo. The bingo games would be the responsibility of the [sic] Frances and Raquel and the BVFD would receive the money from the bingo games while the income from the pull tabs would go to Frances and Raquel for operating the charity gaming event. All responsibility of obtaining the gaming license, ordering the gaming supplies, accounting for the income, obtaining the start up money for the bingo events and payment of all expenses along with finding a bingo hall would be done by Frances and Raquel Meade." (Department's Exhibit C).
- 4) The Department then notified Petitioner by letter that she was prohibited from associating with charity gaming activities in the State of Indiana for a period of ten (10) years and assessed one thousand dollars (\$1,000) for, "being an operator or worker at the BVFD's bingo event without being a member of the BVFD." (Department's Exhibit C).
- 5) Petitioner was not a member of the BVFD. (Record at 8).
- 6) Petitioner was listed as an authorized operator on the BVFD annual bingo license for the period of July 1, 200 to June 30, 2001. (Department's Exhibit A).
- 7) Petitioner entered into a negotiated plea agreement with the State of Indiana on May 3, 2002. (Department's Exhibit E).
- 8) The Petitioner having entered into a negotiated plea agreement with the State of Indiana, plead guilty to the charge of entering into a contract or agreement in violation of IC 4-32-9-15 with a penalty as a Class A Misdemeanor. (Department's Exhibit F).

### **STATEMENT OF LAW**

- 1) Pursuant to 45 IAC 18-8-4, the burden of proving that the Department's findings are incorrect rests with the individual or organization against which the department's findings are made. The department's investigation establishes a prima facie presumption of the validity of the department's findings.
- 2) The Department's administrative hearings are conducted pursuant to IC § 4-21.5 et seq. (See, House Enrolled Act No. 1556).

- 3) “[B]ecause Pendelton’s interest in his insurance license was a property interest, and not a liberty interest. Rather, a preponderance of the evidence would have been sufficient.” Pendelton v. McCarty, 747 N.E. 2d 56, 65 (Ind. App. 2001).
- 4) “It is reasonable...to adopt a preponderance of the evidence standard where it can be demonstrated that a protected property interest exists.” Burke v. City of Anderson, 612 N.E.2d 559, 565 (Ind.App. 1993).
- 5) IC 4-32-9-23 provides, “An operator or a worker may not be a person who has been convicted of or entered a plea of nolo contendere to a felony committed in the preceding ten (10) years, regardless of the adjudication, unless the department determines that: (1) the person has been pardoned or the person's civil rights have been restored; or (2) subsequent to the conviction or entry of the plea the person has engaged in the kind of good citizenship that would reflect well upon the integrity of the qualified organization and the department.”
- 6) IC 4-32-9-27 states, “An operator or a worker may not directly or indirectly participate, other than in a capacity as operator or worker, in an allowable event...”
- 7) IC 4-32-9-28 states, “An operator must be a member in good standing of the qualified organization that is conducting an allowable event for at least one (1) year at the time of the allowable event.”
- 8) According to IC 4-32-9-29, “A worker must be a member in good standing of a qualified organization that is conducting an allowable event for at least thirty (30) days at the time of the allowable event.”
- 9) IC 4-32-12-2 states, “The department **may impose** upon a qualified organization or an individual the following **civil penalties**:(1) Not more than one thousand dollars (\$1,000) for the first violation.(2) Not more than two thousand five hundred dollars (\$2,500) for the second violation.(3) Not more than five thousand dollars (\$5,000) for each additional violation.” (Emphasis added).
- 10) IC 4-32-12-1(a) provides in pertinent part, “The Department may suspend... an individual ...for any of the following: (1) Violation of a provision of this article or of a rule of the department...”
- 11) IC 4-32-12-3 states, In addition to the penalties described in section 2 of this chapter, the department may do all or any of the following:
  - (1) Suspend or revoke the license.
  - (2) Lengthen a period of suspension of the license.
  - (3) Prohibit an operator or an individual who has been found to be in violation of this article from associating with charity gaming conducted by a qualified organization.
  - (4) Impose an additional civil penalty of not more than one hundred dollars (\$100) for each day the civil penalty goes unpaid.

### **CONCLUSIONS OF LAW**

- 1) On March 6, 2003, the Petitioner was assessed civil penalties in the amount of one thousand dollars (\$1,000) and was prohibited from associating with charity gaming activities in the State of Indiana for a period of ten (10) years.
- 2) The Petitioner violated IC 4-32-9-15 which is a Class D Felony.

### **PROPOSED ORDER**

Following due consideration of the entire record, the Administrative Law Judge orders the following:

The Petitioner's appeal is denied.

- 1) Administrative review of this proposed decision may be obtained by filing, with the Commissioner of the Indiana Department of State Revenue, a written document identifying the basis for each objection within fifteen (15) days after service of this proposed decision. IC 4-21.5-3-29(d).
- 2) Judicial review of a final order may be sought under IC 4-21.5-5.

**THIS PROPOSED ORDER SHALL BECOME THE FINAL ORDER OF THE INDIANA DEPARTMENT OF STATE REVENUE UNLESS OBJECTIONS ARE FILED WITHIN FIFTEEN (15) DAYS FROM THE DATE THE ORDER IS SERVED ON THE PETITIONER.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Bruce R. Kolb / Administrative Law Judge